

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1043 be amended to read as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 35-47-3-2 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) This section
- 4 applies only to firearms which are not required to be registered in the
- 5 National Firearms Registration and Transfer Record.
- 6 (b) Firearms shall be returned to the rightful owner at once
- 7 following final disposition of the cause if a return has not already
- 8 occurred under the terms of IC 35-33-5. If the rightful ownership is not
- 9 known the law enforcement agency holding the firearm shall make a
- 10 reasonable attempt to ascertain the rightful ownership and cause the
- 11 return of the firearm. However, nothing in this chapter shall be
- 12 construed as requiring the return of firearms to rightful owners who
- 13 have been convicted for the misuse of firearms. In such cases, the court
- 14 may provide for the return of the firearm in question or order that the
- 15 firearm be at once delivered:
- 16 (1) except as provided in subdivision (2), to the sheriff's
- 17 department of the county in which the offense occurred; or
- 18 (2) to the city or town police force that confiscated the firearm, if:
- 19 (A) a member of the city or town police force confiscated the
- 20 firearm; and
- 21 (B) the city or town has a population of more than two
- 22 thousand five hundred (2,500) and less than two hundred fifty
- 23 thousand (250,000).
- 24 (c) The receiving law enforcement agency shall dispose of firearms

under subsection (b) at the discretion of the law enforcement agency; not more than one hundred twenty five (125) days following receipt the date the law enforcement agency receives the firearms by use of any of the following procedures:

(1) Public sale of the firearms to the general public as follows:

(A) Notice of the sale shall be:

(i) posted for ten (10) days in the county courthouse in a place readily accessible to the general public; and

(ii) advertised in the principal newspaper of the county for two (2) days in an advertisement that appears in the newspaper at least five (5) days prior to the sale:

(B) Disposition of the firearm shall be by public auction in a place convenient to the general public; with disposition going to the highest bidder. However, no firearm shall be transferred to any bidder if that bidder is not lawfully eligible to receive and possess firearms according to the laws of the United States and Indiana.

(C) All handguns transferred under this subdivision shall also be transferred according to the transfer procedures set forth in this article:

(D) Money collected pursuant to the sales shall first be used to defray the necessary costs of administering this subdivision with any surplus to be:

(i) deposited into the receiving law enforcement agency's firearms training fund; if the law enforcement agency is a county law enforcement agency; or into a continuing education fund established under IC 5-2-8-2; if the law enforcement agency is a city or town law enforcement agency; and

(ii) used by the agency exclusively for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties; if the law enforcement agency is a county law enforcement agency; or for law enforcement purposes; if the law enforcement agency is a city or town law enforcement agency:

(2) Sale of the firearms to a licensed firearms dealer as follows:

(A) Notice of the sale must be:

(i) posted for ten (10) days in the county courthouse in a place readily accessible to the general public; and

(ii) advertised in the principal newspaper of the county for two (2) days in an advertisement that appears in the newspaper at least five (5) days before the sale:

(B) Disposition of the firearm shall be by auction with disposition going to the highest bidder who is a licensed firearms dealer:

(C) Money collected from the sales shall first be used to defray

- 1 the necessary costs of administering this subdivision and any  
 2 surplus shall be:
- 3 (i) deposited into the receiving law enforcement agency's
  - 4 firearms training fund or other appropriate training activities
  - 5 fund; and
  - 6 (ii) used by the agency exclusively for the purpose of
  - 7 training law enforcement officers in the proper use of
  - 8 firearms or other law enforcement duties.
- 9 (3) Sale or transfer of the firearms to another law enforcement  
 10 agency.
- 11 (4) Release to the state police department laboratory or other  
 12 forensic laboratory administered by the state or a political  
 13 subdivision (as defined in IC 36-1-2-13) for the purposes of  
 14 research, training, and comparison in conjunction with the  
 15 forensic examination of firearms evidence.
- 16 (5) ~~Destruction of~~ **destroying** the firearms.
- 17 (d) Notwithstanding the requirement of this section mandating  
 18 disposal of firearms not more than one hundred twenty ~~five~~ **(120) (125)**  
 19 days following receipt, the receiving law enforcement agency may at  
 20 its discretion hold firearms it may receive until a sufficient number has  
 21 accumulated to defray the costs of administering this section if a delay  
 22 does not exceed one hundred eighty (180) days from the date of receipt  
 23 of the first firearm ~~in the sale lot.~~ **by the law enforcement agency.** In  
 24 any event, all confiscated firearms shall be ~~disposed of~~ **destroyed** as  
 25 promptly as possible.
- 26 (e) ~~When a firearm is delivered to the state police department~~  
 27 ~~laboratory or other forensic laboratory under subsection (c)(4) and the~~  
 28 ~~state police department laboratory or other forensic laboratory~~  
 29 ~~determines the laboratory has no further need for the firearm in~~  
 30 ~~question, the laboratory shall return the firearm to the law enforcement~~  
 31 ~~agency for disposal under subsection (c).~~

(Reference is to HB 1043 as printed February 22, 2001.)

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Representative Smith V